
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-CF-427
)	
Grass Roots Broadcasting, LLC)	NAL/Acct. No. 200332340001
WAMM)	
Woodstock, Virginia)	FRN: 0006-5780-41

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 23, 2002

By the District Director, Columbia Office, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Grass Roots Broadcasting, LLC ("Grass Roots") has apparently violated Sections 17.4(a)(2), 17.50, and 73.1125(a) of the Commission's Rules¹ ("Rules"), by failing to register its antenna structure, failing to paint its antenna structure, and failing to maintain a main studio. We conclude that Grass Roots is apparently liable for a forfeiture in the amount of twenty thousand dollars (\$20,000).

II. BACKGROUND

2. On December 12, 2001, an agent from the Commission's Columbia, Maryland office attempted an inspection of WAMM in Woodstock, Virginia. The agent found that the main studio in the Edinburg Mill building was unmanned.

3. On December 17, 2001, the Columbia Office issued a Notice of Violation to Grass Roots for violation of Section 73.1125 of the Rules. In response by letter dated January 10, 2002, Grass Roots stated that in order to correct the violation; the main studio was moving to 148 North Main St, Woodstock, Virginia.

4. On June 26, 2002, agents from the Commission's Columbia Maryland office conducted an inspection of station WAMM, Woodstock, Virginia. The agents observed that none of the production and transmission facilities or the management and staff presence required at a broadcast station's main studio were present at 148 North Main Street, Woodstock, Virginia. The only person present at the main studio was employed by the attorney located at the same address, and not employed by the broadcast station.

5. The agents also found that the 304-foot antenna structure of the station was in need of painting. The agents found that the structure paint had faded, peeled, and had worn away to the extent

¹ 47 C.F.R. §§ 17.4(a)(2), 17.50 and 73.1125(a).

that many sections of the structure had rusted. The agents could not easily distinguish between white and red painted sections of the structure. The condition of the paint reduced the visibility of the tower. The agents further determined that the antenna structure was not registered with the Commission.

6. On July 17, 2002, the Columbia Office issued a Notice of Violation to Grass Roots for violation of Sections 11.52(d), 11.61(d), 17.4(a)(2), 17.50, 73.1125(a), 73.1225(d)(1), 73.1545(a), 73.1560(b), 73.1590(b), 73.3526(b) and 73.3526(e)(12) of the Rules². In response by letter dated August 5, 2002, Grass Roots stated that the antenna registration issue had been brought to its attention by an FCC inspector in December 2001 and that an FAA study, required before the structure can be registered, commenced on June 20, 2002. Grass Roots stated the previous owner had agreed to paint the antenna structure but the contractor failed to perform, and a new contractor had been engaged to perform the painting. Grass Roots further stated that it believed the requirements for a main studio were only that the public inspection file and management (via telephone) be available during business hours. Grass Roots stated that the main studio, with full production and transmission facilities and staff, is now located at 118 North Main Street, Woodstock, Virginia. Grass Roots also adequately addressed corrective action of the other violations in its reply.

III. DISCUSSION

7. Section 17.4(a)(2) of the Rules requires antenna structures that had been assigned painting and lighting requirements prior to July 1, 1996 be registered prior to July 1, 1998. The station license for WAMM, issued December 20, 1983 lists antenna structure painting and lighting requirements. The licensee stated that an FCC inspector had verbally brought the registration issue to his attention in December 2001. The required FAA study was not begun until June 20, 2002. As of the date of this Notice, Grass Roots still had not registered the antenna structure.

8. Section 17.50 of the Rules requires that antenna structures be cleaned and painted as often as necessary to maintain good visibility. On June 26, 2002, the required paint on Grass Roots' antenna structure was severely faded, and was no longer the required aviation orange and white in color. As a result, the structure was not clearly visible.

9. Section 73.1125(a) of the Rules requires that each AM FM and TV broadcast station maintain a main studio. In the Commission's *Memorandum Opinion and Order*³ on main studio rules released August 17, 1988, the Commission stated that "a station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence." At the time of inspection, Grass Roots had no main studio with production facilities and no meaningful management and staff presence.

10. Based on the evidence before us, we find that Grass Roots willfully⁴ and repeatedly⁵ violated Section 17(4)(a), 17.50, and 73.1125(a) of the Rules by failing to register its antenna structure,

²47 C.F.R. §§ 11.52(d), 11.61(d), 73.1225(d)(1), 73.1545(a), 73.1560(b), 73.1590(b), 73.3526(b) and 73.3526(e)(12)

³ See *Memorandum Opinion and Order*, 3 FCC Rcd No. 17 (1988) at 5026.

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act"

by failing to paint its antenna structure as often as necessary to maintain good visibility, and by failing to equip and staff a main studio. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")⁶, sets the base forfeiture amounts at \$3,000 for failure to file the required forms or information (e.g. failure to register the antenna structure), \$10,000 for failure to comply with prescribed lighting and/or marking, and \$7,000 for violation of the main studio rule. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act"), as amended,⁷ which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a twenty thousand dollar (\$20,000) monetary forfeiture is warranted.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ Grass Roots is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty thousand dollars (\$20,000) for willfully violating Sections 17.4(a)(2), 17.50 and 73.1125(a) of the Rules.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Grass Roots SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200332340001, and FRN 0006-5780-41.

14. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200332340001.

See Southern California Broadcasting Co., 6 FCC Rcd 4387 (1991).

⁵ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁶ 47 C.F.R. § 1.80.

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, and 0.311.

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15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

17. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the [relevant Division]. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

18. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Grass Roots Broadcasting, LLC, P.O. Box 107, Toms Brook, VA 22660. A copy shall also be sent to Grass Roots Broadcasting, 100 Wolf’s Lane, Fort Valley, VA 22652.

FEDERAL COMMUNICATIONS COMMISSION

Charles C. Magin
District Director
Columbia Office

¹⁰ See 47 C.F.R. § 1.1914.